

FINAL



WEARE BOARD OF SELECTMEN  
MEETING MINUTES  
June 23, 2008

**PRESENT:** TOM CLOW, CHAIRMAN; WENDY CLARK, VICE CHAIRMAN; HELEEN KURK, SELECTMAN; RICHARD W. BUTT, SELECTMAN; KEITH R. LACASSE, SELECTMAN

**TOWN ADMINISTRATOR:** Fred Ventresco

**RECORDING SECRETARY:** Cherry Palmisano

**GUESTS:** Thomas Mahon, Nick Manolis, Phil St. Cyr

**7:00 p.m. Chairman Clow called the meeting to order.**

**REVIEW OF PERSONNEL POLICY** – Mr. Fred Ventresco said they were all in attendance to review the personnel policy with Primex; it was last reviewed 3 years ago. Chairman Clow said the Benefit Review Committee has not focused on this for several years and there have been changes on the Board and Benefit Review Committee.

Thomas Mahon informed the Board it's up to them to decide how things be done, he was asked to review the personnel policy and is just offering advice. Mr. Mahon said for the most part it is very different from what he remembers seeing the first time; most of the important information was in there and all things that violated state law were removed. Mr. Mahon said the town cannot withhold a paycheck if equipment or keys have not been turned in.

*U.S. Department of Labor* – Mr. Mahon told the Board to go on the U.S Department of Labor website under Family and Medical Leave Act to look up the requirements. Mr. Mahon said some things are very fluent and you may not want to have them in there. Selectman Kurk asked if would be acceptable to just say "in compliance with FMLA". Mr. Mahon said just to take it out. The Board will rework the paragraph before the signature stating who has the authority to change the policy. Once approved changes will be given to town personnel.

*Administration Scope of Plan* – Mr. Mahon recommends a severability clause be inserted.

Selectman Butt is concerned with the process. His intent was to understand the comments given by Mr. Mahon and then the Board would insert their comments and send it back to Primex for review.

Mr. Mahon does not want to provide them with the language because the Board has goals and objectives that they want to see. Mr. Mahon will warn the Board if they are in violation and provide them with comments. Selectman Lacasse said he felt it was a work session to bounce things back and forth.

Chairman Clow wants to make sure when they review the personnel policy he would like Primex to tell them if something is missing. Mr. Ventresco recommends the Board gets all of their questions answered and concerns voiced and he can review Mr. Mahon's comments with the Board if they have any questions. Selectman Kurk is unsure if this is the time for the Board to discuss their views on the personnel policy.

It was discussed the Fire Department has their own book of SOPs. The Police Department has a policy that just deals with benefits. Chairman Clow said the Police Personnel Policy is very outdated.

Chairman Clow said they are going to go through the policy and focus on Mr. Mahon's comments.

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*Demotion* – States a lower salary rate but does not state responsibility change, may want to consider splitting into demotion and reduction and pay.

*Part time employees* – Mr. Mahon thinks you should amplify what they are entitled to as benefits, are they entitled to certain accruals and sick time. Selectman Butt asked if part time employees are allowed to participate. Mr. Mahon said some employers do provide benefits so it is something that needs to be considered. Mr. Mahon said as the employer it is up to the Board to define the benchmarks and distinctions between employment classes.

*Probationary Period* – Mr. Mahon said this generates a lot of discussion, it should not state employee at will, as a public employee they do have some latitude and the more they put in it further erodes the process of an at will employee. State law requires minimum an employer is supposed to provide. Mr. Mahon said it is not a bad thing but means that they need to proceed more carefully. County employees are statutory employees; this is in here because it is an issue of due process. Selectman Kurk said so the things that they have in there in fact takes away the at will status. Mr. Mahon said yes. Selectman Butt said they cannot make the law less effective as it is worded but they can make it more stringent. Mr. Mahon said you are providing the employee something that is above what is required. Mr. Mahon said you are granting so many days of leave and providing benefits. He doesn't want to say it is ok, because it is up to the Board and they should speak with an Attorney who is versed in personnel policies.

Multi year collective bargaining agreements can be carried into the default budget. Mr. Mahon said this is something that gets hashed out during the budget process. Mr. Phil St. Cyr said in reference to probationary periods which weakens the at will employee – how does that effect bargaining agreements. Mr. Mahon said by putting that wording in you have taken the bargaining away. Chairman Clow said the reasoning behind the probationary period is to protect the town if the employee cannot do the job. Chairman Clow asked if this does mean by the way it is written that they have to keep the employee for 6 months. Mr. Mahon said it does mean that. Selectman Lacasse asked what if they want to be at will employers. Mr. Mahon said it would bring the policy down to 4 pages and they would need to have a separate policy on the FMLA. Mr. Mahon said it is up to the Board which way they want to go and puts the town at a disadvantage at getting employees. This is not only there to protect the employer but also the employee. Mr. Mahon said if they are going to hang there hat on “at will” they will be spending a lot of money on legal fees. The probationary time is for the employee and employer to see if they fit. Mr. Mahon said control is during the decision to hire and during the probationary period. Mr. Mahon said if the employee is acting up during the probationary period then they are arrogant and the employer needs to take action. Vice Chairman Clark commented on steps of action verbal and then written. Mr. Mahon said during the probationary period you don't have to do that, tell the employee this is how it is. They should get language that lets the employee know they can be terminated at any time.

Selectman Kurk would like to know if they should include drug and alcohol testing and credit check. Mr. Mahon said if they run a credit check and that shows something that the town does not want to hire that person because of, then they have to tell the person that is the reason. Selectman Kurk said they do a drug and alcohol test for Highway and Police. Mr. Mahon said the best thing for the Board to do is to discuss which positions need to have a credit check. Vice Chairman Clark said if someone files bankruptcy and applies for a job then the town cannot deny them employment based on that information.

*Promotion* – Mr. Mahon said supervisors need to be aware of interpersonal skills. The way the Board has the policy set up is that the Board reviews the supervisors. Mr. Mahon suggests they never waive a probationary period. Mr. Mahon said this deals with promotions, not hiring.

*Personnel Rule* – Mr. Mahon suggests they add any satellite file Rule LAB 802, which defines a personnel policy. Chairman Clow asked if they should be asking employees for an annual review of the employee's personnel policy folder. Mr. Mahon said it is very good practice to review an employees personnel policy every year to check their records for accuracy.

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*Payroll* – It was discussed it is less expensive to have payroll every other week and it is less work. It is up to the Board to decide.

The Board discussed they are working on job descriptions.

Selectman Kurk discussed gossip. Mr. Mahon said that department heads need to take action to stop any gossip within the department. Vice Chairman Clark said if you are in a management role and something is not right in your department then you must take immediate action to stop it.

*Length of Service* – Mr. Mahon asked if this means department length of service or town length of service; he said the Board needs to include language to clarify.

*Political Activity* – What happens if they do engage in political activity? Vice Chairman Clark asked about Religious Activity. Mr. Mahon said it is very rare that this would be put into a personnel policy.

*Outside Activity* – He recommends employee reporting and the Board reviewing to see if there is a conflict.

Mr. Mahon said you need to state what sick time is intended to be used for; putting this up front so the employee is put on notice. Suggests the Board provide language to provide a doctor's note. Mr. Mahon said the personnel policy is there to cover employee's who consistently take advantage and give the Board latitude if someone is abusing their sick time benefit. Selectman Butt asked if employees can borrow sick time from the next calendar. Mr. Mahon said there is nothing in the personnel policy that says otherwise. It was discussed it is a contractual agreement in the Police Department. Selectman Butt asked if they should make provisions for this. Chairman Clow said if they don't return to work – they could possibly owe sick time. Employees can accumulate up to 90 days of sick time. Selectman Butt asked if an employee exhausted their sick time can they then borrow against their future sick time. Mr. Mahon said it is not a practice he would recommend, if it was to happen a contractual agreement should be in place. Vice Chairman Clark asked if someone was salary and they still get sick leave time prorated, if that person comes in late and leaves early, the time they don't work is that considered sick time, how would you suggest monitoring a salary person for sick time. Mr. Mahon said the criteria to be concerned with, is the work getting done; if you start tracking their hours then they should be an hourly employee. Vice Chairman Clark said on their salaried employees should they be giving them back vacation and sick time. Mr. Mahon said this is a legitimate question, but he cannot answer. Vice Chairman Clark said if they allow banking now, can they change the policy. It was discussed the Board could change it at any time; as long as an employee is given notice then they are allowed to do that.

*Bereavement Leave* – Chairman Clow said if a person is out for a 3 day bereavement they can not then earn overtime. The town's policy is hours worked; vacation, holiday, bonus and sick do not allow overtime, have to have the hours worked.

Mr. Mahon said the whole Family Medical Leave Act section needs to be reworked. It is covered by the law; however there is eligibility for the employee to work for 1 year / 150 hours within the year. Based on the language now in the policy every employee would be eligible.

Sick time is not to be used for inclement weather, get rid of the sentence.

*Expense reimbursement* – The town only covers mileage.

*Resignation* – encourage to provide 10 days prior.

*Termination* – unused sick time may be confiscated upon termination. Mr. Mahon said wording should be added to say if the employee is being terminated for bad reasons then they are not eligible for benefits; they have to be in good standing.

*Opt Out Program* – Mr. Mahon said it is inconsistent, needs to be clarified.

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*Workers Compensation* – Mr. Mahon recommends taking out the 2<sup>nd</sup> paragraph; reimbursed in accordance with NH State Law.

It was discussed an employee has to work 35 or more hours per week to be eligible for medical insurance.

*Longevity Bonus* –Chairman Clow said even with the merit pay it had a cap and this would be something for an employee who would not receive anything because they reached the maximum. Mr. Mahon said the average age of municipal employees is quite high.

It was mentioned that retaliation is prohibited and the Board should include the Whistler Blower Law.

The Drug and Alcohol section needs some work, nothing about refusing a test should be included. The Board has the opportunity to decide what happens if they get a positive test.

Mr. Mahon said the Sexual Harassment Policy needs work.

Language that allows the town to skip steps based on the severity of steps. Mr. Mahon said with the list included it limits them.

*Email and telephone* – Mr. Mahon said they could set up an additional internet and telephone usage to be addendums to the personnel policy.

Mr. Mahon said the town of Meredith just completed their personnel policy after 2 years of work. Mr. Mahon said they could review other town's policies that are the same size as Weare but they will still need to make modifications.

Vice Chairman Clark mentioned not having a confidentiality agreement within the policy. Mr. Mahon said there is one paragraph which is adequate.

Selectman Butt asked how subjective insubordination is. Mr. Mahon said very subjective and difficult to define and suggests looking at performance closely.

Mr. Nick Manolis said in October 2007 they met with the Board and discussed a multi year agreement; at that time Weare was not eligible for a multi year agreement for 2008. They discussed the need for improvement in workers compensation, life safety and buildings, personnel policy, within the personnel policy they need a sexual harassment policy, and the need to work together on employment practice issues. Mr. Manolis said they are moving in the right direction to start looking at a multi year agreement and said he is very impressed with the effort being put forth by the Board to rewrite the Personnel Policy. Mr. Manolis said the Board has Mr. Mahon's advice and asked what the flow is from here. Chairman Clow said all Board members have their own comments to add to the policy.

Mr. Manolis said in listening to this policy how many incidents have come down to the action or inaction of the supervisors. Vice Chairman Clark feels all supervisors should have a training session with Primex.

The Board agrees they need to bring the personnel policy to completion (date needs to be determined). Vice Chairman Clark feels it should be 100% completed at or before budget time. Selectman Kurk said it has to be done before budget time. Selectman Butt said the Benefit Review Committee has been the driving force. Chairman Clow said they don't want to exclude anyone that had a part in the personnel policy. Chairman Clow discussed receiving a phone call from a member of the Benefit Review asking if they should be here tonight.

Mr. St. Cyr said they are thankful to have Mr. Mahon on their staff because they hear all issues with towns. Mr. St. Cyr said the longer this gets pushed back the longer the town is left open to incidents. Mr. Manolis asked the Board when they would be prepared to ask Mr. Mahon to come back in. The Board feels by summers end they should be able to complete. Chairman Clow asked Mr. Mahon if he saw any large gaps in the policy. It was discussed the major concerns are sexual harassment and drug and alcohol. Mr. Mahon said the drug and alcohol section is hard to complete in a low volume document. Mr. Mahon said the one that has

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been tested the most has been the Town of Seabrook's and recommends that the board review the drug and alcohol agreements in Meredith and Laconia.

Vice Chairman Clark asked about employee's signing acknowledgements. Mr. Mahon said absolutely, stating they received a copy and read a copy.

Selectman Butt asked how Code of Conduct and Code of Ethics play a part in the personnel policy. Mr. Mahon suggested putting it in as an addendum.

The Board will meeting for regular meetings on July 7 and 21 and on July 14 for Manifest only. The Board tentatively planned a work session on July 9 at 6:00 p.m. to discuss the personnel policy.

The Board discussed correspondence they received regarding cell towers and that this correspondence should go through the Planning Board. Mr. Ventresco feels this should be forwarded to the chair of the Planning Board. Mr. Ventresco will contact the individual and discuss the amount of the lease.

Chairman Clow said he received a letter on June 16 from Gordon Russell concerning Mountain Road. The letter informed the Board that Deering Selectman had a meeting to determine what needs to be done to stop vehicular traffic from passing through flowing water on Mountain Road. Deering has suggested that they meet with Weare to resolve this problem. Selectman Kurk is interested in attending the meeting but feels the BOS does not feel they should necessarily close the road. Chairman Clow said Mr. Russell has been working with PSNH regarding these issues. The letter states to limiting access. Vice Chairman Clark is concerned with a non resident spear heading this. Chairman Clow said he is spear heading this because of his years of involvement in Conservation and being instrumental in the conservation land in that area. Vice Chairman Clark and Selectman Kurk will be attending the meeting. Mr. Ventresco will inform Mr. Russell about Vice Chairman Clark and Selectman Kurk attending the meeting. Mr. Ventresco will contact the Conservation Commission to inform them of the meeting.

**ADMINISTRATIVE REPORT** – Mr. Ventresco said he spoke with DRA concerning Emergency Expenditures and they do not feel this is an emergency situation and feel the town should petition the court to hold another town meeting. Mr. Ventresco mentioned that when the budget failed they had an option to hold another town meeting; that option is still available and they could change the budget numbers. Mr. Ventresco said at this point the consensus at DRA does not look like they would get funding approval. DRA told Mr. Ventresco that the taxpayers voted in the budget and they need to do whatever possible to abide it. Chairman Clow asked what information the contact person had at DRA to base their discussions on. Mr. Ventresco said DRA does not want to be the arbitrators in deciding to overspend. Selectman Butt does not like the thought of going through a Deliberative Session. Mr. Ventresco said when he discussed this with DRA he told them the need in the Public Works Department and being overspent by \$60,000 due to the weather and also years of a default budget. Chairman Clow discussed the general meeting at DRA because there were other town's in the same predicament. Mr. Ventresco said setting up a Deliberative Session and Town Meeting will take some time.

The Cable Committee has set up a date of July 23<sup>rd</sup> to discuss setting up a studio at the school. The intent is to move the infrastructure to the school. Selectman Butt would rather have the School Board and Cable Committee come before the Board to discuss the intent. This meeting is tentatively scheduled for July 7<sup>th</sup>.

There are bills in the Manifest for the East Street Intersection. Mr. Ventresco said the town will pay the bills and he has Jim Cranes word that the school will reimburse the town.

Selectman Kurk mentioned the Transfer Station closing a half hour early to town's people to eliminate overtime.

**Selectman Lacasse moved, Selectman Kurk seconded that the Transfer Station be closed to the public at 3:00 so that at the end of the shift all work can be done to eliminate overtime. Passed 4-1-0**

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Chairman Clow asked Mr. Ventresco if he discussed the road reconstruction with Mr. Carl Knapp. Mr. Ventresco said he spoke with Mr. Knapp and he will look into how he could take payroll from that line, but a lot of the work has been done and most of the work is contracted. Mr. Ventresco mentioned that Mr. Knapp said that the Abijah bridge project salaries could possibly be billed. Mr. Ventresco will get the numbers.

Mr. Ventresco said he spoke with department heads about cutting from their budgets and department heads said they can not spare anything from their budgets. Mr. Ventresco will speak with the Fire and Police Departments. Mr. Ventresco said he did use the wording "in light of their circumstances with the Highway Department" and he asked "what they need in their budgets to get through the end of the year."

It was discussed that the audit is done, they do not have the final copy, but all the numbers are done. Mr. Ventresco mentioned to get the 2007 audit done would cost approximately \$20,000. In 2006 they paid \$15,000 to have the audit done. The 2007 audit is done, they are just waiting for the letter for best practices but the dollar figures are not going to change.

Vice Chairman Clark asked about the Cable Committee expenditure being approved by 3 members of the Board, she did not sign it to approve it, so she questions approving the Manifest.

### MANIFESTS

**Chairman Clow moved, Selectman Kurk seconded, to authorize the Board of Selectmen to sign Manifest and order the Treasurer to sign checks dated June 26, 2008. Passed 3-1-1**

<b>Accounts payable</b>	<b>\$160,156.69</b>	
<b>Gross Payrolls</b>	<b>\$57,586.88</b>	(includes Credit Union, Taxes)
	<b><u>\$231.07</u></b>	(Forest Fire Call)
<b>Total</b>	<b>\$217,974.64</b>	

Vice Chairman Clark wanted it recorded that she did not approve the Capital Reserve Request for \$729.65 to Broad Link Tech, but she did approve the Manifest.

Chairman Clow encourages all Board members to come in prior to the meeting to review the Manifest to get any and all questions answered before the Manifest is approved. Chairman Clow said the Manifest is typically ready for review by Friday at 4:00 p.m. Vice Chairman Clark said by the time the Manifest gets to them she feels Mr. Ventresco and the Finance Administrator should have already have gone through the Manifest. Selectman Kurk said that is not Mrs. Connor's job. Vice Chairman Clark would like to see the Finance Administrator's job description, because she was upgraded from a clerk to a Finance Administrator. Vice Chairman Clark asked that things that look out of the ordinary be looked into. Selectman Butt said month after month when the bill comes in then something needs to be done. It was discussed work on vehicles needs to be done by the Highway Department whenever possible. Mr. Ventresco will work on asking department heads to flag an explanation on anything that is out of the ordinary.

Selectman Kurk moved to adjourn at 10:10 p.m.

### ADJOURNMENT

A True Record.

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Cherry Palmisano, Recording Secretary